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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,992	11/14/2001	William Phelan	29804/36569A	9063
4743	7590	11/20/2009		
MARSHALL, GERSTEIN & BORUN LLP 233 SOUTH WACKER DRIVE 6300 SEARS TOWER CHICAGO, IL 60606-6357			EXAMINER SWARTZ, JAMIE H	
			ART UNIT 3684	PAPER NUMBER
			MAIL DATE 11/20/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/993,992	Applicant(s) PHELAN ET AL.	
	Examiner JAMIE H. SWARTZ	Art Unit 3684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 7-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/10/2009 has been entered.

2. Claims 1-34 are pending. Claims 7-33 have been withdrawn. Claims 1-6 and 34 are currently examined.

Response to Arguments

3. Applicant's arguments with respect to claims 1-6 and 34 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 2, and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Duhon (US 20010011245 A1).

6. Regarding claim 1, Duhon teaches automatically exchanging credit information (see at least abstract). Duhon teaches obtaining payment history data from a member's accounting system, wherein the payment history data is associated with at least one of a plurality of customers (§ 12). Duhon teaches creating a payment history file that contains the payment history data (§ 12-13). Duhon teaches loading the payment history file through the Internet to a system database (§ 12-13). Duhon teaches validating the payment history data by comparing the obtained history data to a data record associated with the first customer if the data record associated with the first customer is present in a centralized data repository (§ 84). Duhon teaches formatting the payment history file into a payment history report (§ 56, 67, 70). Duhon teaches evaluating the payment history data in the payment history file (§ 55). Duhon teaches storing the payment history report in the centralized data repository (see at least abstract, § 12). Duhon teaches providing the payment history report to a requestor upon receiving a request corresponding to the first one customer (§ 85-86).

7. Regarding claim 2, Duhon teaches creating scoring and modeling of customer information (§ 76, 79).

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8. Regarding Claim 34, Duhon teaches a method for automatically obtaining and exchanging credit information (see at least abstract). Duhon teaches obtaining customer credit and business information data from an accounting system of a commercial lending company over the Internet, wherein the customer credit and business information is associated with at least a first customer and includes at least one of lease obligation, loan obligation, and payment history of the at least the first customer (§ 50). Duhon teaches attempting to retrieve customer data associated with the first customer from a centralized data repository (§ 6, 12). Duhon teaches if the customer data is successfully retrieved: validating the customer credit and business information by comparing the obtained customer credit and business information to the customer data associated with the first customer (§ 84); formatting the customer credit and business information into a payment history report (§ 56, 67, 70); storing the payment history report in the centralized data repository (see at least abstract, §12); and providing the payment history report to a requestor upon receiving a request corresponding to the at least the first customer (§ 85).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duhon (US 20010011245 A1) in view of DeFrancesco et al. (US 5878403 A).

11. Regarding claim 3, Duhon teaches automatically obtaining and exchanging credit information (see at least abstract). Duhon teaches opening the payment history; validating the format of the payment history file; loading the payment history file into a system database file (§ 84). Duhon teaches performing a scrubbing routine on the payment history data to remove suspect payment history data (§ 84). Duhon teaches performing matching routines on the payment history data, wherein new lenders are created if no matching lender is found in the system database, and at least one of adding or updating payment history data in the system database is performed if a matching lender is found in the system database (§ 50). Duhon does not specifically go into the details of the payment history file type. However, DeFrancesco teaches determining the payment history file type (col. 26, lines 21-59). Duhon teaches data storage and processing system for credit data reporting. DeFrancesco teaches a computer implemented credit application analysis and decision routing system. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Duhon to include the details of figuring out the payment history file type. Each credit reporting company uses their own file type for storing payment history. It is important for collaborative reporting and formatting between multiple lenders and multiple reporting agencies to know what type the history file is.

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12. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duhon (US 20010011245 A1) in view of DeFrancesco et al. (US 5878403 A) in further view of Mullins (August 1998).

13. Regarding claim 4, Duhon teaches a scrubbing routine on the payment history and modifying the payment history data (§ 84). Duhon does not specifically teach thresholds within a scrubbing routine. However, Mullins teaches performing a scrubbing routine on the data further comprises the step of modifying the suspect data based upon thresholds set by the member (pg. 1-6). Duhon teaches data storage and processing system for credit data reporting. Mullins teaches data mining and data cleansing. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Duhon to include the details of a threshold. It is important to validate data in order to prevent processing errors in the future. The threshold to data scrubbing is a necessity because data scrubbing is by nature something that could go on until infinity. It is a resource application problem. Some limits need to be placed in order to avoid using up all your resources. While these small errors may seem like a trivial problem, when merging corrupt or erroneous data into multiple databases, the problem may be multiplied by the millions. This so-called "dirty data" has been a problem as long as there have been computers, but the problem is becoming more critical as businesses are becoming more complex and data warehouses are merging data from multiple sources. There is no point in having a comprehensive database if that database is filled with errors and disputed information.

14. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duhon (US 20010011245 A1) in view of Official Notice now admitted prior art.

15. Regarding claim 5, Duhon teaches automatically obtaining and exchanging credit information (see at least abstract). Duhon teaches formatting the payment history file into a payment history report (§§ 56, 67, 70). Duhon teaches providing the payment history report to a requestor upon receiving a request corresponding to the first one customer (§§ 85). Duhon does not specifically teach search criteria. However, Official notice now admitted prior art is taken that the six steps taken in claim 5 with respect to search criteria are old and well known in the art at the time of the invention to be basic steps in a typical search query. Every search query involves first having a criteria or search topic. The databases are then searched for whatever specific details that are desired. As each search is run a search history keeps the log of the search. If a match to the query is found the customer data is displayed. The final steps to a typical search query involve generating a report and either displaying it on a computer screen or printing the data out.

16. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duhon (US 20010011245 A1) in view of Zoffel et al. (US 5274547 A).

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17. Regarding claim 6, Duhon teaches automatically obtaining and exchanging credit information (see at least abstract). Duhon teaches scoring (§ 76, 79). Duhon doesn't specifically go into all the details of what values are scored. However, Zoffel teaches computing summary and scoring information, including a high credit value, a total lease balance, total current payments, and a total number of times a customer had an overdue payment; and displaying the summary information (see at least table 4). Duhon teaches data storage and processing system for credit data reporting. Zoffel describes systems of creating credit reports. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Duhon to include the details of credit scoring. Duhon uses the financial information such as bill payment and account balances used for credit scoring. It is the responsibility of a prudent business owner to evaluate the credit worthiness of customers before extending credit. Since the customer information and past credit history is in financial programs it would have been obvious to add credit evaluation to this tool in order to identify credit risks and problematic accounts.

Response to Amendment

18. The affidavit under 37 CFR 1.132 filed September 10, 2009 is insufficient to overcome the rejection of claims 1 based upon inefficient proof of commercial success as set forth in the last Office action because: The recognized problem is not identified. The rejection proves that it was solved by others. In considering evidence of commercial success, care should be taken to determine that the commercial success alleged is

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directly derived from the invention claimed, in a marketplace where the consumer is free to choose on the basis of objective principles, and that such success is not the result of heavy promotion or advertising, shift in advertising, consumption by purchasers normally tied to applicant or assignee, or other business events extraneous to the merits of the claimed invention, etc. In re Mageli, 470 F.2d 1380, 176 USPQ 305 (CCPA 1973) An applicant must show that the claimed features were responsible for the commercial success of an article if the evidence of nonobviousness is to be accorded substantial weight. See In re Huang, 100 F.3d 135, 140, 40 USPQ2d 1685, 1690 (Fed. Cir. 1996). Merely showing that there was commercial success of an article which embodied the invention is not sufficient. Ex parte Remark, 15 USPQ2d 1498, 1502-02 (Bd. Pat. App. & Inter. 1990). Compare Demaco Corp. v. F. Von Langsdorff Licensing Ltd., 851 F.2d 1387, 7 USPQ2d 1222 (Fed. Cir. 1988). Also within the affidavit the applicant must state that there was a need which was a persistent one that was recognized by those of ordinary skill in the art, the long-felt need must not have been satisfied by another before the invention by applicant, and the invention must in fact satisfy the long-felt need. Applicant has not provided sufficient evidence to support any of the aforementioned assertions.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMIE H. SWARTZ whose telephone number is

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(571)272-7363. The examiner can normally be reached on 8:00am-4:30pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571)272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. H. S./
Examiner, Art Unit 3684

/Susanna M. Diaz/

Primary Examiner, Art Unit 3684